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KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			COOLMAN, VAUGHN	
		ART UNIT	PAPER NUMBER	
		3618		

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/789,933	CHAPUT ET AL.
	Examiner Vaughn T. Coolman	Art Unit 3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 27 September 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-62 is/are pending in the application.  
 4a) Of the above claim(s) 44-62 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-43 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 29 July 2004 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>08122004, 01182005</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-43, drawn to a roller skate, classified in class 280, subclass 011.190.
- II. Claims 44-62, drawn to a roller skate wheel, classified in class 301, subclass 005.307.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the roller skate does not require wheels wherein the tire is made of a thermoplastic material. The subcombination has separate utility such as a wheel for a caster assembly.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with James B. Bear on 21 September, 2005 a provisional election was made without traverse to prosecute the invention of the roller skate, claims 1-43. Affirmation of this election must be made by applicant in replying to this office

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action. Claims 44-62 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Specification***

The disclosure is objected to because of the following informalities: reference character "38" on page 9, paragraph 57, lines 5 and 8 is taken by the examiner to be "39" as recited in the rest of the paragraph; reference character "22" on page 18, paragraph 81, line 2 is taken by the examiner to be "222" as recited in the rest of the paragraph.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17, 18, 20, 21, 29-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 17, 20 recite the limitation "the wheels" in line 1. There is insufficient antecedent basis for this limitation in these claims.

Claim 18 recites the limitation "the foot platform" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 21 recites the limitation "rear wheels" and "front wheels" in line 1. There is insufficient antecedent basis for these limitations in the claim.

Claims 29-35 each recite the limitation "system" in line 1. There is insufficient antecedent basis for this limitation in the claim. Examiner has taken the positively recited term "system" to read "roller skate" for the purpose of examination.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 20, 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Fisher et al (U.S. Patent No. 6,517,091).

In re claim 1, Fisher discloses a roller skate (FIG 1, item 20) including: a bifurcated chassis comprising first and second chassis halves, the first chassis half (FIG 1, items 26, 30) having an upper surface (shown in FIG 1) adapted to support a wearer's foot; a pair of foot-retaining wings (shown in FIG 1) mounted on either side of the chassis; front (FIG 4, item 54) and rear (FIG 5A, item 90) axles mounted between the first and second chassis halves and configured to support wheels (FIGS 3, items 34, 36, 38, 40).

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In re claim 2, Fisher discloses all of the elements of the claimed invention as described above and further shows the axles extending through angled slots in side walls of the chassis halves (shown in FIGS 4, 5A).

In re claim 20, Fisher discloses all of the elements of the claimed invention as described above and in FIGS 1 and 2, he further shows the wheels extending above the upper surface of the first chassis half.

In re claim 27, Fisher discloses all of the elements of the claimed invention as described above and further describes the wings as comprising a plurality of quick release straps (Column 2, lines 54-63)

Claims 28, 29, 30, 31, 32, 33, 34, 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Gray (U.S. Patent No. 4,403,784).

In re claim 28, Gray discloses a roller skate (Column 4, line 61) including: a skate body (FIG 1, item 10) having a top surface (FIG 1, item 12), a front surface (shown in FIG 1), a rear surface (shown in fig 1), and a pair of side surfaces (shown in FIGS 1, 2); a front axle (FIG 2, item 40) extending through the side surfaces at a front portion (FIG 1, item 16) of the skate body, and a rear axle (Column 3, line 16) extending through the side surfaces at a rear portion (FIG , item 20)of the skate body, the front and rear axles being positioned between the top and bottom surfaces of the skate body (shown in FIG 1); a plurality of wheels (FIG 6, items 62A, 62B) rotatably mounted to the axles; wherein the skate is inherently configured to turn in a desired direction as a wearer leans in said direction (Column 3, lines 24-28).

In re claim 29, Gray discloses all of the elements of the claimed invention as described above and further shows the front and rear axles extending through angled slots (FIG 1, items

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34) in the skate body, the slots being adapted to cause the front and rear axles to pivot about respective pivot axes (FIG 5, item 70) as the skate body is leaned in a desired direction.

In re claim 30, Gray discloses all of the elements of the claimed invention as described above, and further shows the axles (40) being resiliently biased toward a position in which the skate will roll straight ahead (FIGS 1, 2, 4; Column 3, lines 24-28).

In re claim 31, Gray discloses all of the elements of the claimed invention as described above and further shows at least one of the axles being resiliently biased (FIG 2) by a resilient block (FIG 2, items 44A, 44B; FIG 7) surrounding at least a central portion of the at least one axle (shown in FIGS 1, 2).

In re claim 32, Gray discloses all of the elements of the claimed invention as described above and further shows the resilient block comprising first and second halves (44A, 44B) with angled faces (shown in FIG 7).

In re claim 33, Gray discloses all of the elements of the claimed invention as described above and further shows a pin (FIGS 4, 6; item 60) extending transversely through the axle (40A, 40B) surrounded by the resilient block (44A, 44B).

In re claim 34, Gray discloses all of the elements of the claimed invention as described above and further shows in FIGS 3, 4, and 5 the longitudinal axis of the pin (60) being collinear with a pivot axis (70) of the axle (40A, 40B) through which the pin extends.

In re claim 35, Gray discloses all of the elements of the claimed invention as described above and further shows the skate being substantially symmetrical as viewed from above in FIGS 2 and 6.

Claims 36, 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Iseman (U.S. Patent No. 3,738,673).

In re claim 36, Iseman discloses a roller skate (FIG 1, item 10) including: a skate chassis comprising an upper surface (shown in FIG 1), a lower surface (shown in FIG 3), and a pair of side surfaces (shown in FIGS 1, 3); an axle (FIG 1, item 25) extending through an angled slot (FIG 3, item 22) in one of the side surfaces of the chassis, the slot is shown inherently having a first end, a second end, and a center; a pair of wheels (FIG 2, items 57) mounted to opposite ends of said axle; and a biasing element (FIG 6, item 50) adapted to bias the axle toward the center of said slot (Column 7, lines 12-16).

In re claim 37, Iseman discloses all of the elements of the claimed invention as described above and further shows the biasing element comprising a block of resilient material (Column 7, lines 12-13) surrounding a portion (FIG 6, item 44) of the axle (25).

Claims 38, 42, 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller et al (U.S. Patent No. 6,719,304).

In re claim 38, Miller discloses a roller skate (FIG 4, item 10') including: a platform (FIG 2, item 32) adapted to support a street shoe (FIG 1, item S); a plurality of wheels (FIG 4, items 12') straddling the platform wherein tops of the wheels extend above the platform (shown in FIG 4); retaining elements (FIG 4, items 28', 30', 38', 40', 42', 44') adapted to secure a street shoe on the platform, at least a portion of the street shoe being located between the wheels (shown in FIG 1).

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In re claim 42, Miller discloses all of the elements of the claimed invention as described above and further shows the retaining elements comprising guard portions (28', 30') configured to prevent a shoe of a wearer from contacting the wheels.

In re claim 43, Miller discloses all of the elements of the claimed invention as described above and further shows the wheels (12') having ground-engaging surfaces extending below said platform bottom surface by a distance of less than half a diameter of said wheels (shown in FIGS 3, 4).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 4, 8, 11, 12, 16, 22, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher et al (U.S. Patent No. 6,517,091) in view of Iseman (U.S. Patent No. 3,738,673).

In re claim 2, Fisher discloses all of the elements of the claimed invention as described above except for the axles extending through angled slots in side walls of the chassis. However, Iseman teaches front and rear axles (FIG 1, items 25) extending through angled slots (FIG 3, items 21, 22) in side walls of a skate chassis. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the skate chassis shown by Fisher, with the angled slots as taught by Iseman, in order to, according to Iseman, avoid wheel slip

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caused by improper front or rear wheel tracking by allowing the axles to pivot (as shown in FIGS 17, 18).

In re claim 3, Fisher in view of Iseman discloses all of the elements of the claimed invention as described above and Iseman further discloses his skate chassis as comprising front and rear biasing elements (FIG 2, items 50) configured to resiliently bias the front axle and rear axles respectively towards a position at a center of the slots (Column 7, lines 12-16). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the skate chassis shown by Fisher as modified by Iseman, with the biasing elements as further taught by Iseman, since such a modification provides the advantage, according to Iseman, of automatically returning the axles to a position perpendicular to the longitudinal axis of the skate chassis when not in the act of turning.

In re claim 4, Fisher in view of Iseman discloses all of the elements of the claimed invention as described above and Iseman also shows the biasing elements as comprising torsion blocks (FIG 2, items 50) made of a resilient material (Column 7, line 12) surrounding at least central portions (FIG 5, items 44) of the front and rear axles. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the skate chassis with biasing elements shown by Fisher as modified by Iseman, with the torsion blocks surrounding the axles as taught by Iseman for the reasons described above.

In re claim 8, Fisher in view of Iseman discloses all of the elements of the claimed invention as described above except for the slots being angled at 30 degrees relative to a plane intersecting the front and rear axles. However, Iseman shows the slots angled relative to the plane intersecting the axles. It would have been obvious to one having ordinary skill in the art at

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the time the invention was made to choose a value of 30 degrees relative to the plane intersecting the axles for the angle of the slots, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum value or workable ranges involves only routine skill in the art.

In re claim 11, Fisher in view of Iseman discloses all of the elements of the claimed invention as described above and Iseman further teaches a skate including a pin (FIG 5, item 33) extending through a transverse hole (FIG 3, item 27) located substantially at a linear center of each axle (shown in FIG 5). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the skate shown by Fisher as modified by Iseman, with the axle pin as further taught by Iseman, since such a modification would provide the advantage of retaining the axle wheels in a position equidistant from the linear center of the chassis.

In re claim 12, Fisher in view of Iseman discloses all of the elements of the claimed invention as described above and Iseman further teaches the pin (FIG 5, item 33) as comprising a longitudinal axis which is collinear with a pivot axis of the axle (Column 5, lines 9-11). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the skate shown by Fisher as modified by Iseman, with the axle pivot configuration as further taught by Iseman, since such a modification, according to Iseman, would provide the advantage of the axles pivoting solely in response to plate lean.

In re claim 16, Fisher in view of Iseman discloses all of the elements of the claimed invention as described above except for the torsion blocks having a durometer of at least 35. However, Iseman discloses the torsion blocks as resilient. It would have been obvious to one

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having ordinary skill in the art at the time the invention was made to choose a durometer value of at least 35, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum value or workable ranges involves only routine skill in the art.

In re claim 22, Fisher discloses all of the elements of the claimed invention as described above except for the chassis being molded plastic. However, Iseman teaches a skate chassis being molded plastic (Column 4, lines 28-30). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the roller skate chassis shown by Fisher, with the plastic material as taught by Iseman, since such a modification would provide, according to Iseman, a reduction in machining and assembling operations.

In re claim 24, Fisher in view of Iseman discloses all of the elements of the claimed invention as described above and Iseman further teaches a skate chassis including openings (FIG 5, item 48) for receiving the torsion blocks. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the skate chassis shown by Fisher as modified by Iseman, with the torsion block openings as further taught by Iseman, since such a modification would provide the advantage of an integral structure for retaining the torsion blocks in a desired position relative to the chassis.<sup>3</sup>

Claims 5, 14, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher et al (U.S. Patent No. 6,517,091) in view of Iseman (U.S. Patent No. 3,738,673), and further in view of Crone (U.S. Patent No. 2,920,899).

In re claim 5, Fisher in view of Iseman discloses all of the elements of the claimed invention as described above except for the skate further comprising at least one shock absorbing block sandwiched between one of the torsion blocks and the first chassis half. However, Crone

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teaches a shock absorbing block (FIG 5, item 28) being sandwiched between a torsion block (FIG 5, item 26) and the chassis (FIG 5, item 11). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the roller skate shown by Fisher as modified by Iseman, with the shock absorbing block configuration as taught by Crone, since such a modification would provide the advantage of a multi-functional steering and suspension system in a compact configuration.

In re claim 14, Fisher in view of Iseman discloses all of the elements of the claimed invention as described above except for the torsion blocks being sandwiched between the first and second chassis halves. However, Crone teaches torsion blocks (FIG 1, item 26) being sandwiched between the first and second chassis halves (FIG 1, items 10, 12). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the roller skate shown by Fisher as modified by Iseman, with the sandwich configuration as taught by Crone, since such a modification would provide means for dissipating energy transferred from the wheels to the axle before reaching the user's foot by deforming the torsion block in vertical and circumferential directions.

In re claim 15, Fisher in view of Iseman further in view of Crone discloses all of the elements of the claimed invention as described above except for the shock absorber having a durometer of at least 35. However, Crone discloses the shock absorber as resilient (Column 2, line 66). It would have been obvious to one having ordinary skill in the art at the time the invention was made to choose a durometer value of at least 35, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum value or workable ranges involves only routine skill in the art.

Claims 6, 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher et al (U.S. Patent No. 6,517,091) in view of Crone (U.S. Patent No. 2,920,899).

In re claim 6, Fisher discloses all of the elements of the claimed invention as described above except for the lower surface of the chassis including apertures for receiving front and rear brake pads. However, Crone teaches a skate having a lower surface of the chassis (FIG 5, items 10, 11, 12) comprising apertures (FIG 5, item 40) adapted to (Column 4, lines 69-75) receive front and rear brake pads (FIG 5, items 44). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the roller skate chassis shown by Fisher, with the brake receiving apertures as taught by Crone, since such a modification would provide means for stopping the user in the event of an emergency.

In re claim 7, Fisher discloses all of the elements of the claimed invention as described above except for the second chassis half having a lower surface adapted to receive a wear pad. However, Crone teaches a skate including a chassis (FIG 5, items 10, 11, 12) having a lower surface adapted to (Column 4, lines 69-75) receive a wear pad (FIG 5, item 44). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the roller skate chassis shown by Fisher, with the wear pad receiving aperture as taught by Crone, since such a modification would provide the advantage of, according to Crone, attaching a wear pad that could serve as a spinning means.

Claims 9, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher et al (U.S. Patent No. 6,517,091) in view of Iseman (U.S. Patent No. 3,738,673), and further in view of Carrion (French Patent No. 1,225,789).

In re claim 9, Fisher in view of Iseman discloses all of the elements of the claimed invention as described above except for the torsion blocks comprising first and second halves adapted to be assembled to form a single torsion block, with each of the halves having a substantially planar face. However, Carrion teaches the use of torsion blocks comprising first (FIGS 1, 2; item 26) and second (FIGS 1, 2; item 22) halves adapted to be assembled to form a single torsion block. Carrion also shows each half to have a substantially planar face (FIG 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the roller skate shown by Fisher as modified by Iseman, with the torsion block assembly configuration as taught by Carrion, since such a modification would provide the advantage of more manufacturing options, such as riveting, due to being able to disassemble the roller skate body without removing the wheels from the axles.

In re claim 10, Fisher in view of Iseman and Carrion discloses all of the elements of the claimed invention as described above, and Iseman further teaches a pin extending through a transverse hole extending through each axle. In addition, Carrion teaches the structural equivalent of a pin (FIG 2, items 29, 30) being positioned in the torsion block such that the pin is parallel to a substantially planar face, shown in FIGS 1 and 2, of each torsion block half. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the roller skate shown by Fisher as modified by Iseman and Carrion, with the axle pin configuration as further taught by Iseman and Carrion, since such a modification would provide the advantage of retaining the axle wheels in a position equidistant from the linear center of the chassis. In addition, the modification provides for faster assembly than if the pin were

askew or perpendicular to the planar face wherein the pin would have to be inserted into a hole in each of the torsion block halves, rather than placed into, or covered by, a depression.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher et al (U.S. Patent No. 6,517,091) in view of Iseman (U.S. Patent No. 3,738,673), and further in view of Dekome (U.S. Patent No. 1,933,972).

In re claim 13, Fisher in view of Iseman discloses all of the elements of the claimed invention as described above except for the torsion blocks comprising prismatic bodies. A prism shape is defined by Merriam-Webster as a polyhedron with two polygonal faces lying in parallel planes and with the other faces parallelograms. Dekome teaches the use of prismatic bodies for torsion blocks on roller skates as shown in FIGS 1 and 5. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the torsion blocks shown by Fisher as modified by Iseman, with the prismatic body shape as taught by Dekome, since such a modification would provide the advantage of improved assembly geometry with regards to insertion between the chassis halves disclosed by Fisher.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al (U.S. Patent No. 6,719,304).

In re claim 17, Miller discloses all of the elements of the claimed invention as described above except for the wheels being about 3 inches in diameter. However, Miller does disclose large diameter wheels the same as those used on two wheeled scooters such as RAZOR. It is well known in the art that RAZOR scooter wheels are about 3 inches in diameter. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide wheels for a roller skate that are about 3 inches in diameter, since it has been held that where the

general conditions of a claim are disclosed in the prior art, discovering the optimum value or workable ranges involves only routine skill in the art.

Claims 18, 19, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher et al (U.S. Patent No. 6,517,091).

In re claim 18, Fisher discloses all of the elements of the claimed invention as described above except for the foot platform being less than about 5/8 inch above the front axle. However, Fisher does show the foot platform being above the front axle. It would have been obvious to one having ordinary skill in the art at the time the invention was made to position the foot platform of Fisher's skate less than about 5/8 inch above the front axle, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum value or workable ranges involves only routine skill in the art.

In re claim 19, Fisher discloses all of the elements of the claimed invention as described above except for the upper surface of the skate being less than about 3/4 inch above the rear axle. However, Fisher does show the upper surface of the skate being above the rear axle. It would have been obvious to one having ordinary skill in the art at the time the invention was made to position the upper surface of Fisher's skate less than about 3/4 inch above the rear axle, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum value or workable ranges involves only routine skill in the art.

In re claim 26, Fisher discloses all of the elements of the claimed invention as described above except for the foot-retaining wings being made of EVA. However, Fisher discloses a method of forming the rear portion (FIG 1, item 30) which includes the wings, as being molding (Column 2, lines 60-61). It would have been obvious to one having ordinary skill in the art at the

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time the invention was made to mold wings from EVA, since it has been held to be within the general skill of a worker in the art to select a material on the basis of its suitability for the intended use.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher et al (U.S. Patent No. 6,517,091) in view of Tucky (5,398,970).

In re claim 21, Fisher discloses all of the elements of the claimed invention as described above except for the rear wheels not being aligned with the front wheels. However, Tucky teaches the arrangement of front and rear wheels for roller skates wherein rear wheels are not aligned with front wheels (shown in FIG 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the roller skate shown by Fisher, with the wheel configuration as taught by Tucky, since such a modification would provide the advantage of narrowing the rear portion of the roller skate to better fit the contour of a user's heel.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher et al (U.S. Patent No. 6,517,091) in view of Ware (U.S. Patent No. 4,058,323).

In re claim 23, Fisher discloses all of the elements of the claimed invention as described above except for the skate chassis comprising a plurality of ribs on inner surfaces of each chassis half. However, Ware teaches the use of a plurality of ribs on inner surfaces of a roller skate chassis, as shown in FIGS 2, 3, 4, and 5. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the roller skate chassis shown by Fisher, with the plurality of chassis ribs as taught by Ware, since such a modification would,

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according to Ware, provide desirable strength and weight characteristics while being inexpensive to manufacture as well (Column 1, lines 63-65; Column 2, lines 4-7, 18-19).

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher et al (U.S. Patent No. 6,517,091) in view of Goosmann (U.S. Patent No. 2,033,334).

In re claim 25, Fisher discloses all of the elements of the claimed invention as described above except for a toe portion of the first chassis half being curved upward. However, Goosmann teaches the use of an upwardly curving toe portion for a roller skate chassis (FIGS 1, 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the roller skate shown by Fisher, with the upwardly curving toe portion as taught by Goosmann, since such a modification would, according to Goosmann, have the advantage of being configured in the form of a shoe sole of a user (Column 3, lines 26-27).

Claims 39, 40, 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al (U.S. Patent No. 6,719,304) in view of Hayes (U.S. Patent No. 6,006,450).

In re claim 39, Miller discloses all of the elements of the claimed invention as described above except for a grind pad removably mounted to the bottom surface of the platform. However Hayes teaches the use of a removable grind pad (FIGS 1, 2; item 31) for shoes. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the roller skate shown by Miller, with the removable grind pad as taught by Hayes, since such a modification would provide the advantages, according to Hayes, of having the ability to participate in grinding activities common to skateboarding and roller skating such as sliding along a hand rail or park bench back (Column 1, lines 23-35). Hayes also teaches the

advantage of changing a worn-out grind plate by removing the plate and replacing it with a new grind plate (Column 6, lines 20-25).

In re claim 40, Miller in view of Hayes discloses all of the elements of the claimed invention as described above and Hayes further shows the grind pad having a concave bottom surface (FIG 2, item 101). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the roller skate shown by Miller as modified by Hayes, with the concave grind plate bottom surface as taught by Hayes, since the concave, or downwardly open semi-cylindrical trough, shape is well known in the art to provide the advantage of stability when centered over a rail during a grinding maneuver (Column 1, lines 45-50).

In re claim 41, Miller in view of Hayes discloses all of the elements of the claimed invention as described above and Hayes further shows the grind pad bottom surface being concave in two perpendicular directions (FIG 2, items 101 & 103). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the roller skate shown by Miller as modified by Hayes, with the a grind plate bottom surface being concave in two perpendicular directions as taught by Hayes, since such a modification would allow the user to grind in four directions; two lateral, forward, and rearward.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Price et al (U.S. Patent No. 252,970) and Chang (U.S. Patent No. 6,012,727) each show various elements of the instant application.

Wegener (U.S. Patent No. 6,581,943) shows a concave grind pad for roller skates.

Lee (U.S. Patent No. 5,421,596) shows a roller skate with front and rear wheels that are unaligned.

Yung (U.S. Design Patent No. 410,268) shows a roller skate chassis including openings for front and rear brake pads.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vaughn T. Coolman whose telephone number is (571) 272-6014. The examiner can normally be reached on Monday thru Friday, 8am-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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